

# REASONS for a General Indefinite speedy Act of Oblivion.

**T**H O some may fret, and huff, and bounce at every thing that's past; as if all their Madness and Rage were founded on a true basis, yet it is apparent from Reason and Truth; and the First and Second *Vindication of the Magistracy and Government of England*, hath made clear, that their Foundation is false, and the Law is direct and plain in their teeth, and doth and will justify in most of the particulars, at which they foam their Curses and Execrations: Reason therefore as well as necessity enjoins a silence as to what is past; for otherwise the Kingdom can never have its desired satisfaction, for in points justifiable or at least doubtful, the justice of inflicting Punishments can never be vindicated: did I call them Punishments, I beg the Readers pardon for the Impropriety, however I'll not name their proper terms, but with calmness endeavor to Evince three things.

1. That it would be grateful to the Nation in general, and every good Man in particular: 2. Conducing to the Settlement and Interest of the present Government; and lastly, That 'tis consistent with and promotive of the highest and truest Justice.

First, The Nation did and doth expect it, for Revenge is never natural but when freshly pursued, and time wears off the sense of Injuries, by the Intervention of new ones either real or imaginary, which is all one as to this purpose: the horror of any Crime, or at least the detestation of the Criminal, grows faint and languid upon the removal of the Object, especially if time interposes with the accession of present fears, which at present do more affect us than greater if more distant, whether past or future. It can never therefore be thought the desire of the People of *England* to have their Neighbors or Acquaintance harassed and persecuted by Fines, Condemnations, Imprisonments, Marks of Disgrace, or the like, for Actions done in the last or former Reigns, about which the World hath been so much divided; if lawful or not: Besides, that this was the general Expectation of the Kingdom on the new Settlement or at least the Coronation, of which nature there never was an Instance be-

fore this without an Act of Grace; And it is most plain, that none are Adversaries to it, but the *Republicans* and the *Jacobites*, not for that they need it not, as I shall shew anon, but for different ends each drives at and wishes a Change, it matters not to what, for if to the latter the other hopes a Commonwealth will be the more desirable: If the *Republican* succeeds, then the other believe a Restoration the more easie, but both dislike the present, and therefore dread a Settlement, and consequently dread the Peoples satisfaction and quiet under Their Majesties, and consequently dread an Act of Indemnity; 'tis true, the Cry for Vengeance is loud, but 'tis only from these two corners; which leads to the second particular, that

It will establish and promote the Interest of the present Government; for while the popular Bull is full of his Damnes and Menaces, there's certainly danger, and where there's danger there's fear now fear causes an aversion, and aversion begets hatred: and the Object of it is that from whence the supposed danger arises, which is from the Government irritated by the Venom and Fury of those hot-headed Animals, whatsoever hath power and will to hurt a man, must and will be abhorred by that man: And though none are immediate actual Patients, yet the being possibly obnoxious to it, and the want of security for the contrary doth of necessity cool their respect to the present Power under which they are not safe; and this tempts them and their Friends upon contrivances and attempts of Danger both to themselves and the Publick; and danger by the attempt is no discouragement where the true danger attends their forbearance: and this is of weight, unless *Cromwell's* Politics be thought Christian, to cherish and promote a Plot, as of advantage to Settlement, if seasonably discovered and subtly manag'd; but however 'tis as true, that Enemies who are desperate ought never to be thought inconsiderable, tho' so in themselves; for they may shake and batter what they can't destroy, they may do mischief though they can't work ruin to their Adversaries, upon which account the temptation of continual impending Danger is fit to be removed: Besides

The want of Security, and the fear of Danger, making Men uneasie in their thoughts, replenishes them with Complaints and Murmurs at every awkward Action, or supposed miscarriage of the Government feared; it makes them Mutineers at publick Taxes and Impositions, partly because they think it strengthens and increases the power of hurting them, and partly because it sponges and bleeds them of that, which they fear an occasion of themselves to bribe Blackrods, Sergeants at Arms and other Goalers with; and in a conjuncture when extraordinary Aids are indispensibly requisite, no temptation to complaint is deserving of Countenance; besides, that it cramps Trade and discourages Projects for Publick Good, &c. but further, 'Tis the living, not the dead, the happy, contented, and chearful, and free, not the oppressed, miserable, forlorn, or imprisoned Subject, that doth Service to the Crown and the Publick.

It hinders all such as are thought to be so obnoxious from any bold Essays for the use of the present Government, for that if success be the attendant of such their attempt, they continue unsafe notwithstanding; for no man in his Wits will adventure an hazard to secure that Authority, which he is not sure will make him safe, if he doth undertake the present Adventure, and escapes that danger, and performs the Service; so that Self-preservation renders it their Policy to unhinge themselves from, or to shy of the present Power, of which a considerable number might prove useful Friends; while are now Newtens at least, if not Enemies.

Its observable in all foreign Policies either to work a total Extirpation of the whole Party, or an universal Indemnity after so grand a Revolution as this was: the former is not to be practis'd here for two Reasons, 1. Because we want People and can spare none. 2. Many of our Friends must be banish'd too; for divers of the supposed Criminals were instrumental to the present Change, &c. *Bingo*, the latter only is and can be most advisable: for once I'll suppose their numbers but small in comparison to the Saints and Innocents, (if any such there are in the Nation) yet under our present Circumstances all are to be oblig'd as Friends that possibly may; but if the thirteen Heads, with the Surrenders Clause, and all its and their Subdivisions had been reduced into a Law in the designed Act of Attainder, one third at least of the Nation had been involved, who with their disobliged Relatives and Dependants are not so contemptible a Flock, tho' but of Sheep for the slaughter: Besides

It's impolitrack as well as unjust to deny or delay it to those who have submitted to the Go-

vernment, yielded it Obedience, and quietly bore its publick Charges according to their Proportion and yet give a free, full and general Pardon both in Scotland and Ireland, to all that took up Arms, for all their Sins then past and present, upon their return to Quiet and Peace; it provokes the former to repent their non-concurrence with the latter; for 'twas but resuming their Quiet and Submission at pleasure, and then they were safe, which now they are not, but under continued Menaces and Dangers both, as appears in their being baited by every barking Cur, that can but wire with Gall in his Ink, or speak with a Damme in his Mouth.

Experience further tells us, that nothing turns or changes the humor of the *English* Commoner, like Rage, Infolence, and Cruelty in their fellow-Subjects, when made Superiors, and such is raking into old Sores thought to be; it matters not whether justly or no to this purpose, the effect is generally such: The Star-Chamber in *Car. 1.* his time, the Major-General in *Cromwell's* time; The Tophamizing of Abboters in *Car. 2.* his time; The Western Campaign, and the other criminal Prosecutions in the beginning of *Jac. 1.* I say all the Violences, used in these several periods (and yet they had their respective Provocations) did most notoriously alter the Kidney of the Commons, and made even their once beloved, first dreadful and terrible, then odious and loathsome, they produced considerable Changes in their several Consequences. I could come nearer home even to the tearing of *Moor* and *Norrb*, and other Citizens of *London*, which first turn'd the Stomach of that City, as is now apparent, but *Sat verbum*, &c. but further,

The want of this, renders both the Policy and Honor of the great Bellowers for Vengeance to be justly suspected, 1. Their Honor in taking care of their own Servants for all their Excesses upon the Revolution, and opposing the Indemnity of all others, as by the Act appears. 2. Their Policy, for that it is observable in Story, that the Association in Queen *Elizab.* time was under a Protestant Prince for the Protestant Religion, and no ill Success attended it; yet those wise Ancestors of ours thought fit to secure themselves by turning the Association into a Law, and a general Act of Indemnity: I do not say they needed it, but the Associates in that Reign thought it needful, *Cam. Elix. 300, 309. 27 Elix. cap. 30.* and 'tis very considerable, that in no Reign was there more Peace and Quiet than in hers, and in none were there ever more free and general Pardons, and in truth the latter was the occasion of the former; for when Men are once safe and quiet, no small Temptation will provoke any more adventures, tho' they like

like another better, yet Men being easie are generally contented : There was one free and general Pardon of the Queens at first confirmed, *5 Eliz.* cap. 11. another. *9 Eliz.* cap. 18. *13 Eliz.* cap. 28. *18 Eliz.* cap. 24. *23 Eliz.* cap. 16. *27 Eliz.* 13. *29 Eliz.* cap. 9. *31 Eliz.* cap. 16. *35 Eliz.* cap. 14. *39 Eliz.* cap. 28. *43 Eliz.* cap. 19. Eleven in number, and never five Years without a Parliament-Pardon; and this made Parliaments and Crowns the Darlings and Desire of the People : Besides, it's the Interest of each Party amongst us, tho' some don't see it : the *Whig* ought to promote it for two Reasons ; 1. Left being the lesser part he chance to feel the want of it, and for that he has given some Provocation : 2. That if he be the greater, the Memory of his Vengeance and Fury may be forgotten. and himself reitored to the good Opinion of the rest of Mankind, by one Act at least of good Nature : The *Tory* ought to pursue the same measures, and much for the same Reasons, for his Top-gallantry hath been, and if repress'd will be again as odious and loathsome to the moderate and good, as ever it was, or as the others could be : Temper therefore is now the Game, and a Veil over all that's past is certainly the most politick, especially considering the multitude of the supposed Criminals, and the justice of their several Excuses, which comes next ; for

Lastly, It's consistent with and promotive of the truest and highest Justice, for in most of the Cases the Law was doubtful ; and to punish Opinion in matters of Law, is as unjust as to persecute Mistakes in matters of Religion is unchristian, and new Laws for Government *de futuro*, are more agreeable to natural Equity than a retrospective Fury : that it was so doubtful, is plain, the modern Scribes have sufficiently proved it. In two Cases they differ amongst themselves ; for Dr. *Story's* Case the Defender cries 'tis not Law, the Remarker agrees 'tis, and that he was well hanged ; for *Plunket's* Case the Defender cries he was well hanged, for there was Treason enough in his Charge ; the Remarker insinuates as if he suffer'd hardly : Now what must be believed between these two great Bodies of Learning ? The like may be said of *Soames's* Case, and some others : but what is more ? In the Voluminous Argument against the *Dispensing Power* the Author doth concede that there are some Prerogatives so personally and inseparably inherent in the Crown, that no Act of Parliament can cramp or diminish it, or at least take away, and that some Statutes might be dispensed with ; and that being granted, I'm sure all that the rest

of the Book says can never make that a plain Case ; and in truth his own Argument shews and leaves it a disputable Point : and if that were doubtful, every Particular else may well be buried in Oblivion ; besides, in Cases of Construction the nature of the thing admits of doubt, and then there's no colour for Punishment.

In respect of Inferior Persons, by our Constitution they are obliged to submit to and follow *Westminster-Hall*, which is the *lex loquens Angliæ*, and when all these things are duly considered, there will remain but few grand execrable Criminals, who are fit to be made Examples of, only to tickle some, aggrieve others, and terrifie none, for that will be the Consequence, for that's the Case of all Violence where the Justice of the thing is not clear and undoubted : Then for Exceptions,

Let us think a little ; Is it reasonable that some should suffer for not being afraid of Punishments never declared or promulgated, and others shall escape because their Countenances are more fawning, or that by consent their Relations have plaid on the other side, or that their swinging Fortunes enable them to scatter Mice for their personal Indemnity, or that they have had the lucky Principle of being faithful to all Changes, and true to nothing else, or that they have been forward to subvert their old Master, after their fire and folly had ruined him and endangered themselves : These and such like are no Pleas for Justice, and yet this is the Case : further,

The drift is to magnifie and aggrandize Punishments by Bill, which by the standing Laws and common Justice of the Realm, could not be inflicted ; and they urge two Reasons for it, 1. Their particular Pardons will otherwise excuse them. To that I answer, Either they are valid in Law or not, if not, there's no need of Bills ; if they are valid in Law, the same Law and Justice of the Land enjoyn their Allowance ; even the same Law by which the Countryman plows his Land, the Gentleman receives his Rent, the Trader recovers his Debt, and the Senator sits in the House ; and by the same Reason that these enjoy their Properties, the Criminal ought to have his Pardon allowed, for one's a Right accru'd by the Law as well as the other. 2. The common Channel is too smooth : Severity is sometimes necessary, and that now if ever ; and therefore the Legislative Authority ought to exert its Power, and punish according to Demerit : To answer that, I say, either they are no Offences by Law, and there needs a Bill to make them such, and inflict Evils upon them as such, or else they are Offences but deserve a greater Punishment than a common Court



may pronounce: now if the fact be the  
Case, then I'm sure, his rank palpable tyrannical  
injustice, and that's the plague of living under an  
Arbitrary Power; for none can know what's not  
Criminal: If they mean the latter, as I suppose  
they do, then I ask to what end were Punish-  
ments invented in Societies, but to restrain Men  
from doing particular actions through the power  
and influence of Fear; and how could that Con-  
sequence be expected, when the Penalty was ne-  
ver known before 'tis inflicted; and to inflict an e-  
vil afterwards which was not known before, is to  
make a Man suffer that which he could not fear,  
because he could not know it, and this because  
he did not fear it: and the Justice of that is  
plain too.

I agree with the Satyrists that there are some  
Precedents of this last method of proceeding, but  
most of them are repealed, I'll name two that are  
so, the Earl of *Savafford's*, which the very Law  
itself did enjoin Posterity not to oblige, or follow,  
or do the like; I can't forget one Expression of  
his to this effect upon the Tryal, if there be an  
Error in a Judge, so that he give a Sentence o-  
therwise than a Man of better understanding con-  
ceives Reason for, there's no cause the offence  
should be heightened because he was not so wise  
a Man as he might have been, nor so understand-  
ing as another, and if that be allowed, it will make  
a more eligible to follow a Plow than serve a Go-  
vernment, to dig in a Ditch than bear an Office,  
for all Men stand obnoxious to the Constructions  
and Passions of succeeding Times: There's one In-  
stance more, and that was Sir *Thomas Harey's*  
who was attainted of Treason for bringing in a  
Bill into the Commons House against the Picro-  
gative, though while, and as a Member: I sup-  
pose the Sparks will not much applaud the justice  
of that Procedure for their own sakes; but as I  
said before, that and most others of their Prece-  
dents were repealed, when a cooler Assembly met  
upon the next Session, and so was *Harey's*,  
*Over. abt. rec. 362, 393.*

But if Vengeance be requisite, it ought to be  
without respect of Persons, The Justice of it  
ought to be impartial, true and Catholick: and

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then come in the Perfectioners and Surrenderers, the  
Regulators and Promisers, the old High Commis-  
sioners, and the New Creed makers, &c. and God  
knows *quis non*, &c. May since the Revolution;  
some more must come in for a smack of Censure  
too, the buyers and sellers of Places, the Mem-  
bers that took Offices contrary to their own moti-  
on and vote in the *Westminster* Parliament: *Cum*  
*multis aliis*, &c. To conclude, Our Saviour's Rule  
if observed will be the most infallible Indemnity  
that can be contrived, and that is, *John 8. c. 7. v.*  
*Let him that is without sin amongst you, cast the*  
*first stone.* And in truth a Censor of the Manners  
of others ought himself to be pure, clean and in-  
nocent, *in omni re quacunque*; and if there be no  
danger but from such, I'm sure there's no danger  
at all, and that it should be so, is the truest Ju-  
stice in the World, *quod fuit probandum.*

I'll not mention the Argument from the Va-  
cancy, that the Government was dissolved, eve-  
ry thing reduced into its primitive state of Na-  
ture, all power devolved into individuals, and the  
particulars only to provide for themselves by a new  
Contract, for if so, there's yet no new consent  
for Punishment of acts done before the Dissolu-  
tion, and consequently Revenge, for that is at  
an end; Indemnity therefore ought to be pro-  
moted by those who made that Vote, for othe-  
rwise their truth may be suspected, &c.

## POSTSCRIPT.

SOME perhaps will blame the boldness of this  
Style, as provocative rather than passing; to  
which I say, Truth ought never to be flume-  
faced, for it will prevail one time or another:  
and if it do not, but angers some, 'twill be only  
those that were implacable before, who if they  
ha'n't good Nature enough to pardon a bold  
Stroke or two with a Pen, they'll never consent  
to an Act of Indemnity, and then their Fury is  
not to be regarded, for the want of it will in-  
flame (as it hath created) our present Divisions,  
and consequently run us at last into a true Con-  
fusion, from which, Good Lords deliver us.